

REMARKS/ARGUMENTS

Claims 25-58 and 71 are present in this application. By this Amendment, claims 25-50, 55, 56 and 71 have been amended, and claims 59-70 have been canceled. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Initially, Applicant affirms the election of Group I, claims 25-71, with traverse. Applicant respectfully submits that the subject matter of all claims 25-73 is sufficiently related that a thorough search of the subject matter of any one group of claims would necessarily encompass a search for the subject matter of the remaining claims. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "[i]f the search and examination of the entire application can be made without serious burden, the Examiner must examine it on the merits even though it includes claims to distinct or independent inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office. Withdrawal of the restriction requirement is requested.

The disclosure was objected to due to an informality. The specification has been appropriately amended. Withdrawal of the objection is requested.

In paragraphs 14-19, various claims were rejected on the ground of non-statutory obviousness-type double patenting. Without conceding the rejections, filed concurrently herewith is a Terminal Disclaimer to overcome the non-statutory double patenting rejections. Applicant thus respectfully submits that the rejections are moot. Withdrawal of the rejections is requested.

In paragraph 21, claim 47 is rejected under 35 U.S.C. §112, second paragraph. Claim 47 has been amended to delete the word “means.” Withdrawal of the rejection is requested.

Claims 25, 27, 28, 31, 43, 44-46, 48, 49, 51, 52, 55-57, 59, 62-66 and 68 were rejected under 35 U.S.C. §102(b) over U.S. Published Patent Application No. 2002/0127307 to McGill. This rejection is respectfully traversed.

The McGill publication corresponds to U.S. Patent No. 6,854,875.

With regard to claim 25, claim 25 defines a rim portion defining a circumferential slot into which a top edge of the container is located when the lid and container are assembled. In contrast, the lids in the McGill publication do not define a slot for receiving the top edge of the container; rather, the lids in the McGill publication define a circular outer portion 2A that is intended to be sealingly engaged over the rim of the container. The circular outer portion 2A in the McGill publication does not define a circumferential slot. Moreover, claim 25 has been amended to recite that the radially inner side of the slot extends along an inner wall of the container and in contact with or closely adjacent the inner wall when the lid and container are assembled. As described in the present specification at, for example, page 7, lines 15-17, the portion 12B of the lid 12 that extends along the inner side wall of the upper end of the container gives excellent sealing qualities and a seating within the container. It is readily apparent that the lids shown in the McGill publication lack at least this claimed feature of the invention, and Applicant submits that the rejection of claim 25 is misplaced.

Independent claim 49 defines a container lid for mounting on an open ended beverage container. Claim 49 recites that the container lid comprises a rim portion defining a circumferential slot into which the top edge of the container is located when the lid and container are assembled, where a radially inner side of the slot extends along an inner wall of the container

and in contact with or closely adjacent the inner wall when the lid and container are assembled.

As discussed above, at least this structure is lacking in the McGill publication. As such,

Applicant submits that the rejection of independent claim 49 is also misplaced.

With regard to the dependent claims, Applicant submits that these claims are allowable at least by virtue of their dependency on an allowable independent claim.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 25, 26, 28, 30, 32-34, 43, 44, 49, 50, 52, 54-60 and 62-69 were rejected under 35 U.S.C. §102(b) over U.S. Patent No. 3,635,147 to Lee. This rejection is respectfully traversed.

The Lee patent is directed to a cooking vessel for preparing food that requires combined mixing and heating of the ingredients. Lee describes two sets of stirring blades mounted inside a wok bowl that are configured for low speed rotation to cause the ingredients “to mix or interleave in a folding operation, rather than being whipped or blended as in a conventional high-speed mixer.” See, for example, col. 1, lines 40-47. See also col. 1, lines 70-73. Lee thus lacks at least the claimed blending element for blending the contents of the container when the drive means is operated. As noted, Lee specifically requires that its stirring blades 35, 37 perform a stirring function rather than a blending function. Lee in fact expressly disclaims a “whipping or blending” capability. In an effort to clarify this distinction, claim 25 has been amended to define a blending apparatus for high speed blending operation including “a blending element for blending the contents of the container.” The claimed blending element and high speed rotation facilitate the preparation of blended beverages such as milkshakes, smoothies and the like. The structure in the Lee patent is distinguishable in that its stirring blades rather serve to cook and stir food and are structurally incapable of and are not subject to a high speed blending operation. Applicant thus respectfully submits that the rejection of claim 25 is misplaced.

Independent claim 49 has been similarly amended to recite that the container lid has located thereon blending means for a high speed blending operation, where the container lid includes a blending element for high speed blending of contents of the container. As noted above, at least this structure is lacking in the Lee patent, and Applicant thus submits that the rejection of claim 49 is also misplaced.

With regard to the dependent claims, Applicant submits that these claims are allowable at least by virtue of their dependency on an allowable independent claim.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 35, 36, 38-41 and 70 were rejected under 35 U.S.C. §103(a) over McGill. The McGill publication, however, does not provide any suggestion to modify its structure to correct those deficiencies noted above with regard to independent claim 25. As such, Applicant submits that these dependent claims are allowable at least by virtue of their dependency on an allowable independent claim. Withdrawal of the rejection is requested.

Claims 25, 26, 28, 32, 33, 43, 45-47, 50, 52, 53, 55-57, 59, 60-65, 68 and 69 were rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,363,837 to Sham et al. This rejection is respectfully traversed.

Sham discloses a juice extractor for extracting juice from fruit combined with a mixer device for mixing the extracted juice with a variety of additional ingredients. A paddle 94 is depended into a compartment 102 formed by a container 104. As discussed above, claim 25 defines a blending apparatus for a high speed blending operation that includes a container base and a container lid. A blending means is mounted on the container lid for a high speed rotation and includes a blending element for blending contents of the container when the drive means is operated. In contrast, the paddle 94 in Sham serves merely to mix the extracted fruit juice with

additional ingredients, and Sham does not in any manner disclose that the paddle is structured for blending contents of the container. Applicant thus submits that Sham lacks at least the claimed blending element. Additionally, claim 25 defines a circumferential slot into which the top edge of the container is located when the lid and container are assembled. Claim 25 further recites that a radially inner side of the slot extends along an inner wall of the container and in contact with or closely adjacent the inner wall when the lid and container are assembled. The Sham structure lacks any such slot that receives a top edge of the pitcher 104. As shown in Figs. 4 and 5, at best, the member 56 engages the container in a friction fit. For this reason also, Applicant submits that the rejection of claim 25 is misplaced.

With regard to dependent claims 26, 28, 32, 33, 43 and 45-47, Applicant submits that these claims are allowable at least by virtue of their dependency on an allowable independent claim.

With regard to dependent claims 50, 52, 53 and 55-57, since these claims depend from independent claim 49, and since independent claim 49 does not form part of this rejection, Applicant submits that the rejection of these dependent claims is *per se* misplaced. Assuming it was the Examiner's intention to include independent claim 49, Applicant submits that the rejection of claim 49 is also misplaced since Sham lacks the claimed blending element and the claimed structure of the circumferential slot. Applicant submits that these dependent claims are allowable at least by virtue of their dependency on an allowable independent claim.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 42 and 71 were rejected under 35 U.S.C. §103(a) over McGill in view of Sham. This rejection is respectfully traversed.

With regard to claim 42, Applicant submits that the Sham patent does not provide any suggestion to modify the McGill structure to correct those deficiencies noted above with regard to claim 25. As such, Applicant submits that claim 42 is allowable at least by virtue of its dependency on an allowable independent claim.

Claim 71 defines a container lid for mounting on an open ended beverage container including blending means for a high speed blending operation. The apparatus includes, *inter alia*, lubrication means to permit the contents of the container, during blending, to contact and lubricate the cooperating surfaces of the shaft portion and the opening in the lid, where the lubrication means includes longitudinal slots in the side walls of the opening that constitute a sleeve for the shaft portion, the slots admitting the container contents to act as lubrication. In this context, the Office Action contends that Sham discloses “vertical grooves on the surface of their mixing shaft 78 (Figs. 4 and 6), which would allow lubrication of the working elements by the juices dripping down from the juicing element above.” Applicant respectfully submits that this characterization of the Sham structure is inaccurate. The shaft 78 in the Sham structure includes a hexagonal portion that mates with a similar bore in sleeve 80. This shape does not in any manner render obvious the defined structure including longitudinal slots in the side walls of the opening that constitute a sleeve for the shaft portion, where the slots admit the container contents to act as lubrication. Applicant thus submits that the rejection of claim 71 is also misplaced.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 37 was rejected under 35 U.S.C. §103(a) over McGill in view of U.S. Patent No. 4,108,054 to Klöcker et al. Without conceding this rejection, Applicant submits that the Klöcker patent does not correct the deficiencies noted above with regard to McGill and claim 25. As

such, Applicant submits that this dependent claim is allowable at least by virtue of its dependency on an allowable independent claim. Withdrawal of the rejection is requested.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims are patentable over the art of record and that the application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Prompt passage to issuance is earnestly solicited.

Respectfully submitted,

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